

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID WESLEY MORRISON,

Defendant-Appellant.

UNPUBLISHED

September 17, 1999

No. 208357

Oakland Circuit Court

LC No. 97-153332 FC

Before: Collins, P.J., and Jansen and White, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of armed robbery, MCL 750.529; MSA 28.797, and felonious assault, MCL 750.82; MSA 28.277. The trial court subsequently verified defendant's status as a third habitual offender, MCL 769.11; MSA 28.1083, and sentenced him to concurrent terms of ten to twenty years' imprisonment for the armed robbery conviction and two to eight years' imprisonment for the assault conviction. Defendant appeals of right. We affirm, but remand for correction of the judgment of sentence.

Defendant argues that the trial court erred in reading the standard jury instruction on aiding and abetting, which states that the intent element of the crime may be satisfied by defendant's knowledge of the principal's intent. Because defendant did not object at trial and stated that he was satisfied with the instructions given, our review of this issue is foreclosed absent manifest injustice. *People v Van Dorsten*, 441 Mich 540, 544-545; 494 NW2d 737 (1993).

We find no manifest injustice. The intent requirement for aiding and abetting may be satisfied upon a showing that the defendant either intended the commission of the crime (i.e., possessed the same intent as the principal) or knew that the principal intended its commission at the time of giving aid or encouragement. See *People v Partridge*, 211 Mich App 239, 240; 535 NW2d 251 (1995). This Court has upheld the validity of the aiding and abetting instruction against similar challenges. *People v Lawton*, 196 Mich App 341, 351-352; 492 NW2d 810 (1992); see also *People v McCrady*, 210 Mich App 9, 14; 533 NW2d 359 (1995).

Defendant also contends that he is entitled to an additional twenty-nine days credit for time served before sentencing due to a miscalculation of his sentencing credit. We agree. The record indicates that defendant was arrested on June 12, 1997, and sentenced on November 25, 1997, during which time he remained incarcerated. We find nothing in the record or presentence investigation report to indicate that defendant was not entitled to credit for all the time served prior to sentencing on the instant offense. Therefore, we remand to the trial court to correct the judgment of sentence to reflect 167 days credit for time served rather than the 138 days credit given.

Affirmed and remanded for correction of the judgment of sentence. We do not retain jurisdiction.

/s/ Jeffrey G. Collins

/s/ Kathleen Jansen

/s/ Helene N. White